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EXAMINER				
BLACK, MELISSA ANN				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,243

Applicant(s)

BAETZ ET AL.

Examiner

MELISSA A. BLACK

Art Unit

3612

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-72 is/are pending in the application.
- 4a) Of the above claim(s) 37, 38, 43-46 and 69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35, 36, 39-42, 47-68 and 70-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date 6/16/06, 3/2/07
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Species A, figures 1-3, in the reply filed on October 9, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 37, 38, 43-46 and 69 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 9, 2008. Examiner is also withdrawing claims 43-45 and 69 for they are drawn to the guiding device of species B.

Claim Objections

3. Claims 36 objected to because of the following informalities: The definition of "obtuse angle" is an angle between 90 and 180 degrees, and an angle greater than 180 degrees is a "reflex angle". Appropriate correction is required.
4. Claim 56 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 56 is the same as claim 54.

Drawings

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "5" has been used to designate both "a torsion spring" page 10 of the

specification and “a guide slot”, page 12 of the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 35, 39-42, 47-50, 52, 59, 60, 63-66 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat # 6,595,588 to Ellerich et al.

Re Claim 35, Ellerich et al discloses a motor vehicle seat (201) comprising: a backrest (230) operable to be brought into an upright use position (Figures 11-14) to form a support for a seat user's back; a pivotably mounted cushion carrier (221) for a seat cushion (222) which, in its use position, defines a seat surface for a seat user (Figure 11); a folding mechanism for folding over the cushion carrier to a folded position in front of the backrest, so that the cushion carrier essentially extends along the backrest when the backrest is in its upright use position (Figure 14);

wherein the folding mechanism comprises a pair of levers (203, 209), connected to each other in an articulated manner at a knee joint (See Figures 11-14), the pair of levers enclosing an acute angle (See Figure 11) at the knee joint; and wherein, when the cushion carrier (221) is folded over from the use position to the folded position in front of the backrest, the acute angle is transformed into an obtuse angle (See Figure 14). Re Claim 39, Ellerich et al discloses means for limiting (the seatback, runner 206 and the back of the seat in front) an adjustment path (See Columns 5-6 lines 66-5) of at least one lever of the pair of levers during the folding of the cushion carrier and which, when a predeterminable angle between the two levers of the pair of levers is reached, the means for limiting oppose a further movement of the at least one lever, which would otherwise lead to an enlargement of the angle. Re Claims 40-42, Ellerich et al discloses that the means for limiting the adjustment path are formed by a stop (seatback, 230), wherein the stop limits a movement of one of the pair of articulated levers (203, 209), the lever interacting with the stop (230) configured to be coupled to a floor subassembly (206) of a motor vehicle, wherein the stop is provided on one of a floor subassembly (206) and on one lever of the pair of articulated levers. Re Claims 47-49, Ellerich et al discloses the pair of levers (203, 209) is formed by two levers, wherein one of the levers (203) is arranged on the cushion carrier (221) and the other is to be coupled pivotably to a floor subassembly (206) of a motor vehicle, wherein the lever (203) arranged on the cushion carrier (221) is one of coupled pivotably to the cushion carrier (221) and is attached rigidly to the cushion carrier, wherein coupling points of the pair of levers on the cushion carrier (221) and on the floor subassembly (205), respectively, and the knee joint of the pair of levers are arranged in such a manner with respect to a pivot axis about which the cushion carrier (221) is foldable that, when the obtuse angle is present between the

pair of levers, the arrangement of the coupling points and of the knee joint opposes a pivoting movement of the cushion carrier (221) about its pivot axis, which would otherwise lead to the cushion carrier folding back into the use position (See Figures 11-14). Re Claim 50, Ellerich et al discloses that in the folded position of the cushion carrier (221), a stop surface (See Figure 14) of one lever (203) bears against the cushion carrier (221) and thereby opposes a folding of the cushion carrier forward. Re Claim 52, Ellerich et al discloses the elastic means are capable of being provided which would oppose a resetting movement of the cushion carrier from its folded to use position (See Column 6, lines 1-5). Re Claims 59 and 60, Ellerich et al discloses the knee joint is supported on a floor subassembly (206) when the cushion carrier is in the use position and the knee joint is raised from the floor subassembly when in the folded position (see figures 11 and 14). Re claims 63-66, Ellerich et al discloses the pivot axis (219) of the cushion carrier is mounted movably, wherein the pivot axis (219) of the cushion carrier (221) is arranged on a third lever (205), the third lever is coupled pivotably by with one end to the cushion carrier at a coupling point, and wherein at the coupling point the third lever (205) forms the pivot axis (219) of the cushion carrier (221), wherein the third lever is to be coupled with its other end to a floor subassembly (206) of a motor vehicle.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 61, 62, 67, 68, 71 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat # 6,595,588 to Ellerich et al.

Re Claims 61 and 62, Ellerich et al fails to disclose that the backrest is folded forward and pivotably mounted about an axis.

Ellerich does teach in another embodiment that the backrest is capable of being folded forward and pivotably mounted.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to make the backrest fold forward as taught in another embodiment of Ellerich et al in order to have multiple functionalities of the vehicle seat.

Re Claims 67, 68, 71 and 72, Ellerich et al further discloses a third lever (205) wherein the backrest and cushion carrier all meet at a coupling lever (219), wherein it would have been obvious to one of ordinary skill in the art that the cushion carrier and the seatback would be capable of pivoting at this point.

11. Claims 51-58, 70 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat # 6,595,588 to Ellerich et al in view of US Pat # 6,048,030 to Kanda et al.

Re Claims 57 and 70, Ellerich et al discloses the use of a linear spring (Column 5-6).

Re claims 51-56 and 73, Ellerich et al fails to distinctly disclose and actuation element for moving the cushion carrier and levers, and that the elastic means acts on the knee joint of the two levers to oppose the resetting movement of the cushion carrier, wherein the elastic means is a torsion spring.

Kanda et al teaches the use of actuation elements (10) for moving parts of the seat and levers, the elastic means are torsion springs and act at joints of more than one lever (See figures 1-3).

It would have been obvious at the time the invention was made to use the actuation element and torsion springs as taught by Kanda et al on the device of Ellerich et al in order to assist the movement of the cushion carrier, furthermore, it is obvious that one would be capable of placing the torsion spring in different places where the apparatus would need assistance in moving.

Re Claim 58, Ellerich et al fails to distinctly disclose that the backrest cushion and the carrier cushion serve as elastic means opposing the resetting movement of the cushion carrier, but it would be obvious to one with ordinary skill in the art at the time the invention was made that Ellerich et al would be capable of doing so, for all cushions have elastic means.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA A. BLACK whose telephone number is (571)272-4737. The examiner can normally be reached on M-F 7:00-3:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A. B./
Examiner, Art Unit 3612

/Hilary Gutman/
Primary Examiner, Art Unit 3612